

REMARKS/ARGUMENTS

Claims 1-22 are pending. Claims 1-22 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 1, 2, 4-6, 8-10, 12, 13, and 15 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,408,543 to Erickson. Claims 1, 2, 5, 6, 8, and 16-18 were rejected as anticipated by U.S. Patent No. 1,733,678 to Torchia. Claims 1, 2, 4-6, 8-10, and 19-22 were rejected as anticipated by U.S. Patent No. 6,092,311 to MacNamara. Claims 3, 7, 14, and 23 were rejected under 35 U.S.C. 103(a) as unpatentable over Erickson or Torchia. Claim 11 was rejected as unpatentable over Erickson or Torchia in view of U.S. Patent No. 5,230,170 to Dahle.

With respect to the rejections under 35 U.S.C. 112, second paragraph, Applicant has amended the claims to address the matters deemed to be indefinite. Particularly, in Claim 1, Applicant has rewritten the claim in a manner that is believed to be clear. Claim 11 has been amended to recite that the cushioning means is operable for initiating an exothermic chemical reaction. Claim 13 has been amended to delete the reference to "torsional geometry", and to substitute clearer language. It is believed the claims are now clear and definite.

Regarding the rejections under 35 U.S.C. 102(b), Applicant has rewritten Claim 1 in a manner that distinguishes over Erickson, Torchia, and MacNamara. Claim 1 requires that each left-foot and right-foot insole system includes a plurality of forefoot pieces and a plurality of heel pieces. The user selects a left-foot heel piece and a left-foot forefoot piece from the respective pluralities and assembles them together to form the insole for the left foot, and similarly assembles the insole for the right foot from the right-foot forefoot and heel pieces. None of the cited references discloses such a system.

Erickson discloses a footbed system in which the footbed for a given foot includes a single "sole pad" and at least two heel cups. When Erickson refers to "at least one sole pad", it is important to realize that he is not suggesting that there can be more than one sole pad for a given foot. Rather, he is suggesting that a second sole pad can be provided, along with at least two

additional heel cups, for forming a footbed for the other foot. This is clear from the passage at column 2, lines 10-28. Accordingly, Erickson neither teaches nor suggests a modular cushioned insole support system in which for each foot there are a plurality of forefoot pieces and a plurality of heel pieces to select from and assemble together to form the insole for that foot. Erickson's objective is to provide a system for adjusting the fit of a shoe in the heel region only, by providing heel cups whose side walls are of different volumes (col. 1, lines 43-55). Erickson says *nothing* about adjusting the fit in the forefoot region by providing forefoot pieces of different configurations.

Therefore, Claim 1 is not anticipated by Erickson, and hence neither are dependent Claims 2-22 for at least the same reasons.

Torchia likewise does not anticipate any of the claims. Torchia discloses a fallen arch supporter that can be adjusted in configuration by attaching to it any of a number of additional pieces such as a front pad **11**, a side pad **13**, a toe pad **17**, and a heel pad **15**. Torchia fails to disclose or suggest a system as in Claim 1, having a plurality of left-foot forefoot pieces, a plurality of left-foot heel pieces, a plurality of right-foot forefoot pieces, and a plurality of right-foot heel pieces. Torchia instead discloses a single component **1, 2** for underlying and supporting a given one of the user's heels, and this single component can be slightly modified in configuration by adding one or more of the aforementioned additional pieces. Thus, the claims are not anticipated by Torchia.

MacNamara also fails to anticipate any of the claims. MacNamara discloses insoles **30, 40, 50** each of which is configured to be detachably affixed to the outsole **20** of a shoe, and discloses that the "wearing surfaces" of the insoles differ in size so that, as a child's foot grows, for example, the same shoe can be adjusted to fit properly by switching from the insole **30** (which has a size 5 wearing surface) to the next insole **40** (size 5 ¼ wearing surface), and finally to the last insole **50** (size 5 ½ wearing surface). None of the insoles **30, 40, 50** is a modular construction made up of separately formed heel and forefoot pieces. In this regard, contrary to the Office Action, the item **20** in MacNamara is not a heel piece as claimed, but rather is the

outsole of the shoe. MacNamara fails to disclose or suggest a system as in Claim 1, having a plurality of left-foot forefoot pieces, a plurality of left-foot heel pieces, a plurality of right-foot forefoot pieces, and a plurality of right-foot heel pieces.

For the above reasons, it is submitted that all of the rejections under 35 U.S.C. 102(b) have been overcome and thus should be withdrawn.

In light of the above remarks, it should also be evident that the cited references, alone or in combination, do not render the invention of Claim 1 obvious. As noted, none of the cited references discloses a modular insole support system having a plurality of left-foot forefoot pieces, a plurality of left-foot heel pieces, a plurality of right-foot forefoot pieces, and a plurality of right-foot heel pieces as claimed. Accordingly, even if the references were somehow combined (and for the avoidance of doubt, Applicant submits there would not have been any motivation or suggestion to combine them), they still would not have suggested the insole system as claimed.

Accordingly, it is submitted that the rejections under 35 U.S.C. 103(a) should be withdrawn.

Finally, Applicant is aware that new drawings will be required for this application, per the Examiner's previous objection and the proposed modifications to the drawings, which have been approved by the Examiner. In view of the need to prepare and file the present Amendment without delay because of the unintentional abandonment of the application and the need to revive it promptly, Applicant has not had yet new formal drawings prepared. However, Applicant intends to have such drawings prepared for submission at the earliest reasonable opportunity.

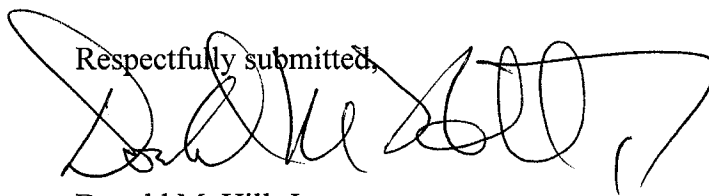
Conclusion

Based on the above amendments and remarks, it is submitted that apart from the requirement for new drawings, the application is in condition for allowance.

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Amdt. dated December 22, 2006
Reply to Office Action of June 16, 2003

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Donald M. Hill, Jr.", written over the typed name.

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